

THE STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S FINAL APPROVED TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

November 6, 2006

9:30 a.m.

Reported By:

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Certified Reporter (AZ 50127)

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1 A PUBLIC MEETING, BEFORE THE CITIZENS CLEAN  
 2 ELECTIONS COMMISSION, convened at 9:30 a.m. on November  
 3 6, 2006, at the State of Arizona, Clean Elections  
 4 Commission, 1616 W. Adams, Conference Room, Phoenix,  
 5 Arizona, in the presence of the following Board members:  
 6 Ms. Marcia Busching, Phoenix, Chairperson  
 7 Mr. Gary Scaramazzo, Page  
 8 Ms. Ermila Jolley, Yuma, Teleconference  
 9 Mr. Carl Kunasek, Maricopa  
 10 Ms. Royann J. Parker, Pima, Teleconference  
 11 OTHERS PRESENT:  
 12 Todd Lang, Executive Director  
 13 Diana Varela, Assistant Attorney General  
 14 Colleen McGee, Deputy Director  
 15 Paula Ortiz, Executive Assistant  
 16 Christina Murphy, Fiscal Services Manager  
 17 Michael Becker, Voter Education Manager  
 18 Daniel Ruiz II, Campaign Finance Manager  
 19 Eric Peterson, Administrative Counsel  
 20 David Maddox, Attorney for Munsil Campaign  
 21 Lee Munsil, Munsil Campaign  
 22 Jan Van Amerongen, Citizen  
 23 Lauren Lowe, AZ Democratic Party  
 24 Eric Ehst, Clean Elections Institute  
 25 Andy Gordon, Attorney for Napolitano  
 Jim Barton, Torres Campaign  
 Laura Knaparek, District 17 Representative  
 Julie Lind, Knaparek Campaign

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## P R O C E E D I N G

1 CHAIRPERSON BUSCHING: Good morning. I'm  
 2 Marcia Busching. I'm Chairman of the Citizens Clean  
 3 Elections Commission. Today is Monday, November 6th,  
 4 2006. It is 9:30 a.m.

5 We're at 1616 West Adams, Suite 110, Phoenix,  
 6 Arizona 85007.

7 We have three of the Commissioners present in  
 8 person and the other two Commissioners appearing by  
 9 teleconference.

10 All matters on the agenda may be discussed,  
 11 considered, and are subject to action by the Commission.

12 The first item, call to order I've already  
 13 done.

14 The second item, consideration and possible  
 15 ratification of issuance of matching funds for Pinal  
 16 County Republican Web ad: A) Pete Rios, B) Rebecca  
 17 Rios, and C) Barbara McGuire.

18 Mr. Lang?

19 MR. LANG: Actually, we have a PowerPoint for  
 20 this. The audience always like that. I forgot to make  
 21 sure it was on though.

22 How does one tell whether it's on?

23 CHAIRPERSON BUSCHING: There's a light coming

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1 out the front.  
 2 (Whereupon a discussion was held off the  
 3 record.)  
 4 MR. LANG: Well, I'll show you this. Just so  
 5 Commissioners have knowledge that, you know, the whole  
 6 issues of slate come up. And, unfortunately, the  
 7 Commissioners on the phone can't see this, but what I  
 8 have in my hand is, yes, a real slate. On one side it  
 9 lists the candidates, the office they seek, and it has  
 10 their photo and it is nine candidates.

11 And on the back it has sort of a generic thing  
 12 of how the Democrats keep Arizona strong. It is in fact  
 13 a true slate. That is entirely exempt from any matching  
 14 funds.

15 So I thought I'd pass it around. I'm sure  
 16 you've seen it before but I just haven't seen them  
 17 lately.

18 COMMISSIONER JOLLEY: Hello?

19 CHAIRPERSON BUSCHING: Yes.

20 MR. LANG: Hi. Royann?

21 COMMISSIONER PARKER: Yeah, I'm here.

22 CHAIRPERSON BUSCHING: Yeah, we're waiting for  
 23 the -- the projector to come on.

24 COMMISSIONER JOLLEY: Oh, okay.

25 MR. LANG: Commissioner Jolley and Commissioner

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1 Parker, we were just passing around a true slate mailer.

2 COMMISSIONER JOLLEY: Oh, okay.

3 COMMISSIONER PARKER: Better hang on to this.

4 MR. LANG: Yeah, well keep it and put it in the  
 5 Hall of Fame.

6 COMMISSIONER PARKER: Put it in the rule book  
 7 so next time they'll see this is a slate mailer. It  
 8 looks like this.

9 MR. LANG: Right.

10 You know what, why don't we start. If  
 11 you go to Agenda Item II, it's the Web ad and you should  
 12 see a color -- in your books you should see a color  
 13 print of what appears to be six columns. These were  
 14 little bar ads. When you go to the Website -- right --  
 15 the folks here have it. Do you on the phone have it?

16 COMMISSIONER PARKER: Yes.

17 COMMISSIONER JOLLEY: Yes.

18 MR. LANG: Okay. Normally when you go to the  
 19 Website you don't see this. What you would see is just  
 20 one page of this -- I mean, one of these slides. And  
 21 each time you go to the page it would randomly give you  
 22 a different one. You might see Judge April Elliott one  
 23 time and then you will hear the generic, "Make your  
 24 voice heard, go and vote."

25 This Web ad appeared on 85239.com which I

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1 believe is a Website devoted to the city and area of  
2 Maricopa. And the way we matched this is we counted the  
3 number of candidates, which in this case is five.

4 That's why your amended sheets has the right amount.

5 For those of you on the phone, you'll notice  
6 that we had the wrong calculation because that said 26.  
7 That included the sort of generic panel, but actually  
8 the match should only include the candidates.

9 So we're awarding matching -- we awarded  
10 matching funds based on one-fifth benefitting Ms. Chase  
11 and then two-fifths benefitting Fillmore and Pratt,  
12 because you match for each person who receives an  
13 endorsement.

14 So, you see there the total cost of the ad. We  
15 didn't include the generic pane in the total cost. So,  
16 the total cost was reduced to \$734 when actually it is  
17 \$800. But then the matching amount still went up. So  
18 \$146.80 to Rebecca Rios, she's already received \$133.28.  
19 So if you approve this she will get another \$13 on  
20 election day. And then \$293.60 to Pete Rios and Barbara  
21 McGuire which is an increase of about \$27. So, if you  
22 approve this, that's how they'll be awarded.

23 If you don't have any questions. That -- that  
24 concludes my discussion on this first piece.

25 COMMISSIONER PARKER: I have a question. You

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1 said that they did not appear altogether in the ad, they  
2 appeared singularly depending on when you got on to the  
3 Website?

4 MR. LANG: Right. It's one ad in the sense  
5 that, you know, it's one gift, but it has a -- or it's  
6 animated so that each time you get a different slide.

7 COMMISSIONER PARKER: Because with the way the  
8 photocopy is, it looks like it's a slate.

9 MR. LANG: Right. Right. It does look like a  
10 slate. And I suppose the argument could be made that it  
11 is a slate, but the problem is each time the viewer goes  
12 on, they only see one candidate.

13 COMMISSIONER PARKER: Right. Okay. I  
14 understand.

15 MR. LANG: All right?

16 COMMISSIONER JOLLEY: I have one question.

17 CHAIRPERSON BUSCHING: Commissioner Jolley?

18 COMMISSIONER JOLLEY: Yes. Now, Todd, you  
19 happened to mention Cheryl Chase a state senator  
20 candidate for District 23. She is non-participating  
21 candidate, that's correct?

22 MR. LANG: That's right.

23 COMMISSIONER JOLLEY: She wouldn't be getting  
24 any funds, right?

25 MR. LANG: Right. None of the -- none of the

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1 folks here are receiving money. This is an endorsement.  
2 It's their opponents who are receiving the money and  
3 their opponents are all participating.

4 COMMISSIONER JOLLEY: Oh, okay.

5 MR. LANG: We're only talking about a few  
6 hundred dollars here, but there you have it.

7 COMMISSIONER JOLLEY: Okay.

8 (Whereupon a series of ads are displayed on the  
9 projector.)

10 MR. LANG: Now we have it on the slide  
11 projector. Moving on to the next one.

12 COMMISSIONER SCARAMAZZO: Would it make sense  
13 for us to vote on this?

14 MR. LANG: Actually, this is separate agenda  
15 item. This is II(B). This is only the Web ad, so  
16 actually this is separate agenda item, Commissioner  
17 Scaramazzo, so I guess we could consider it.

18 CHAIRPERSON BUSCHING: Okay. Any questions of  
19 Mr. Lang?

20 Anyone from the public wish to speak to this  
21 matter?

22 If not, the Chair will entertain a motion.

23 COMMISSIONER KUNASEK: Madame Chair, I move  
24 that we approve the matching funds and Agenda Item II.

25 CHAIRPERSON BUSCHING: And why don't you state

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1 the amount.

2 COMMISSIONER KUNASEK: Oh, okay. Get my  
3 glasses on.

4 CHAIRPERSON BUSCHING: So that --

5 COMMISSIONER KUNASEK: And those funds would be  
6 \$146.80 to Rebecca Rios, \$293.60 to Pete Rios and Barb  
7 [sic] McGuire respectively.

8 CHAIRPERSON BUSCHING: Okay.

9 COMMISSIONER SCARAMAZZO: I'll second that.

10 CHAIRPERSON BUSCHING: It's been moved by  
11 Commissioner Kunasek and seconded by Commissioner  
12 Scaramazzo that we award matching funds to Rebecca Rios,  
13 Pete Rios, and Barbara McGuire as previously stated.  
14 All in favor say, "aye."

15 (Chorus of ayes.)

16 CHAIRPERSON BUSCHING: Opposed, nay?

17 Chair votes aye. Motion carries.

18 Next item is II(A)(1), I believe -- or

19 III(A)(1), I'm sorry. Consideration and possible  
20 ratification of issuance of matching funds for Arizona  
21 Democratic Party slate mailers: A) John Fillmore, Frank  
22 Pratt, and Cheryl Chase.

23 MR. LANG: Thank you, Madame Chair. Sorry  
24 about the glare in your eyes. We're actually looking  
25 into getting a different projector so that it will

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1 project from the ceiling.  
 2 This is the healthcare piece you have in your  
 3 mailer. It is a two-page piece and you can see on the  
 4 side it clearly endorses one person, Barbara McGuire.  
 5 It's mailed by the people at the Arizona Democratic  
 6 Party.  
 7 And then the backside has sort of a combination  
 8 slate and hit piece. On the left we have a slate, and  
 9 on the right we have a hit, and then the middle is a  
 10 comparison and contrast which sort of invokes both. And  
 11 the way we did it was a hundred percent on the front  
 12 page and then one-third of one-half of the back page.  
 13 So, in other words one-third for each candidate  
 14 who is attacked on their half of the back page. So we  
 15 matched half the hit side of the page and then they  
 16 would get one-third each. So the total calculation  
 17 there out of the \$10,293 expenditure would be \$6,004.74  
 18 to Frank Pratt and the same amount for John Fillmore.  
 19 CHAIRPERSON BUSCHING: Okay. Questions of Mr.  
 20 Lang?  
 21 COMMISSIONER PARKER: Todd, this is  
 22 Commissioner Parker.  
 23 CHAIRPERSON BUSCHING: Commissioner Parker?  
 24 MR. LANG: Yes.  
 25 COMMISSIONER PARKER: Isn't this a slate, that

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1 bottom line that's probably about an eighth of that  
 2 page?  
 3 MR. LANG: You mean the bottom, left corner?  
 4 COMMISSIONER PARKER: Yes.  
 5 MR. LANG: Yeah. The blue part, that is  
 6 clearly a slate. But we considered in our view the rest  
 7 of it was a slate too under our broad guidelines.  
 8 Because you see at the top, "McGuire, Rios and Rios  
 9 always also side with patients." And then their  
 10 positions on each thing going down. So we considered  
 11 that substantially endorsing three or more candidates,  
 12 so we declined to match that.  
 13 COMMISSIONER PARKER: But the middle and the  
 14 Fillmore page special interest and, "Fillmore, Chase,  
 15 and Pratt cave into special interest," so --  
 16 MR. LANG: Yeah, we matched all the -- all the  
 17 right side of the page we're matching. The reason it's  
 18 one-third is because it's three candidate.  
 19 COMMISSIONER PARKER: Right. But is it a slate  
 20 when they're touting their stand on medical privacy and  
 21 healthcare costs?  
 22 MR. LANG: As long as it substantially supports  
 23 three candidates, we've matched that. As we've seen  
 24 from the federal regulations and the way some other  
 25 states they have a much tighter view of the slate

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1 exemption. But for us to change it and make it tighter,  
 2 we have to do that after the election.  
 3 COMMISSIONER PARKER: Okay.  
 4 MR. LANG: So --  
 5 COMMISSIONER PARKER: All right.  
 6 CHAIRPERSON BUSCHING: Any other questions of  
 7 Mr. Lang?  
 8 Anyone from the public wish to speak to this  
 9 matter?  
 10 If not, the Chair will entertain a motion.  
 11 COMMISSIONER KUNASEK: Madame Chair, I would  
 12 move in the issuance of III(A), John Fillmore, Frank  
 13 Pratt, and Cheryl Chase that we would award \$6,004.74 to  
 14 Frank Pratt and John Fillmore.  
 15 CHAIRPERSON BUSCHING: Is there a second?  
 16 COMMISSIONER JOLLEY: I'll second that.  
 17 CHAIRPERSON BUSCHING: It's been moved by  
 18 Commissioner Kunasek and seconded by Commissioner Parker  
 19 [sic] that we award \$6,004.74 to Frank Pratt and John  
 20 Fillmore for Agenda Item III(A)(1).  
 21 COMMISSIONER JOLLEY: It was Commissioner  
 22 Jolley.  
 23 COMMISSIONER PARKER: It was Commissioner  
 24 Jolley.  
 25 CHAIRPERSON BUSCHING: Oh, I'm sorry. It was

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1 Commissioner Jolley, who seconded the motion.  
 2 All in favor say, "aye."  
 3 (Chorus of ayes.)  
 4 CHAIRPERSON BUSCHING: Opposed, nay?  
 5 Chair votes aye. Motion carries.  
 6 Item III(A)(2). Mr. Lang?  
 7 MR. LANG: Thank you, Madame Chair. This is  
 8 another combination slate expenditure. The front page  
 9 is simply the set in or the lead in, the set up to get  
 10 the person intrigued. And we have been matching these  
 11 because we consider them part of the slate because  
 12 they're part of the criticism or the support.  
 13 And this one is no different. It's something  
 14 we can revisit after the election if the Commission  
 15 wants to change its policy, but we've traditionally been  
 16 matching this page.  
 17 And then you see the second page. It's a  
 18 complete hit on the three of them. Basically not  
 19 funding schools is the idea here. So, that's why  
 20 they're tied in. Says, "3,000 classrooms with no  
 21 teachers and these folks don't want to fund them."  
 22 Then you have the third page which is a  
 23 traditional slate, "Rebecca and Pete Rios and Barbara  
 24 McGuire, they want to increase teacher pay and fill  
 25 vacancies." Traditional slate. So we won't match that.

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1 And then the fourth page we're not counting at  
 2 all either as a plus or minus because it's completely  
 3 blank, just an address. There's no tie in or nothing.  
 4 So, instead of it being one page out of four is a slate,  
 5 we would say one page out of three is a slate.  
 6 This page, this Rios/McGuire endorsement page  
 7 is a slate. So one page out of three is a slate and  
 8 exempt and then the rest is matched in some sense.  
 9 You see the numbers there. The total cost  
 10 again was \$10,293.84. So we match based on one-third of  
 11 two-thirds of the cost. And the way we do that is these  
 12 two pages are matched, that's one-third of the cost --  
 13 that's two-thirds of the cost. And so we'd say it hits  
 14 each of them equally so they each get one-third of  
 15 two-thirds of the cost. And that comes out to \$2,573.46  
 16 for Mr. Pratt and Mr. Fillmore each.  
 17 CHAIRPERSON BUSCHING: All right. Are there  
 18 questions of Mr. Lang?  
 19 Is there anyone from the public that wishes to  
 20 speak to this matter?  
 21 If not, the Chair will entertain a motion.  
 22 COMMISSIONER SCARAMAZZO: Agenda Item  
 23 III(A)(2), I would move to issue matching allowance --  
 24 matching funds in the amount of \$2,573.46 to Frank Pratt  
 25 and John Fillmore.

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1 the like.  
 2 So we recommend a match of a hundred percent of  
 3 the mailer. One-third for each candidate. And, of  
 4 course, because Ms. Chase is not a participating  
 5 candidate, that would be mean \$3,088 for Pratt and  
 6 Fillmore.  
 7 CHAIRPERSON BUSCHING: Three thousand --  
 8 COMMISSIONER SCARAMAZZO: \$3,431.28.  
 9 MR. LANG: Yeah, sorry. I looked at the wrong  
 10 page. \$3,431.28. Thank you.  
 11 CHAIRPERSON BUSCHING: Okay. Any questions of  
 12 Mr. Lang?  
 13 Is there anyone from the public that wishes to  
 14 speak to this matter?  
 15 If not, the Chair will entertain a motion.  
 16 COMMISSIONER KUNASEK: Madame Chair, I move on  
 17 Item III(A)(3), \$3,431.28 to Fillmore and the like  
 18 amount to Pratt.  
 19 COMMISSIONER SCARAMAZZO: Second.  
 20 CHAIRPERSON BUSCHING: It's been moved by  
 21 Commissioner Kunasek and seconded by Commissioner  
 22 Scaramazzo on the Agenda Item III(A)(3) that we award  
 23 \$3,431.28 to Fillmore and Pratt, that amount each. All  
 24 in favor say, "aye."  
 25 (Chorus of ayes.)

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1 COMMISSIONER KUNASEK: Second.  
 2 CHAIRPERSON BUSCHING: It's been moved by  
 3 Commissioner Scaramazzo and second by Commissioner  
 4 Kunasek that we award \$2,573.46 for agenda item -- to  
 5 each of the two candidates, Frank Pratt and John  
 6 Fillmore, for Agenda Item III(A)(2). All in favor say,  
 7 "aye."  
 8 (Chorus of ayes.)  
 9 CHAIRPERSON BUSCHING: Opposed, nay?  
 10 Chair votes aye. Motion carries.  
 11 Item -- Agenda Item III(A)(3). Mr. Lang?  
 12 MR. LANG: Thank you. This is another mailer  
 13 by the Democratic Party in the same district against  
 14 Fillmore, Pratt, and Chase.  
 15 You see here on the front page it's simply a  
 16 criticism of the three candidates, "Families at risk".  
 17 And you see the various criticisms of the candidates.  
 18 And then the second page it's simply a tie in  
 19 to that, you know, our families are at risk and it's  
 20 because of all this.  
 21 And so this one we matched the entire mailer  
 22 one-third each. This is a classic hit mailer. And even  
 23 though this doesn't mention -- this page doesn't mention  
 24 their names, we think it's reasonably tied in to the  
 25 rest of the mailer with the photos, and language, and

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1 CHAIRPERSON BUSCHING: Opposed, nay?  
 2 Chair votes aye. Motion carries.  
 3 Agenda Item III(A)(4). Mr. Lang?  
 4 MR. LANG: Thank you, Madame Chair,  
 5 Commissioners. This one we already issued matching  
 6 funds so we're asking for ratification of that. But  
 7 there's a discretionary part of it thought that I want  
 8 to bring up for you -- bring up to you.  
 9 But this is the piece. It's a criticism of  
 10 Chase, Fillmore, and Pratt again for supporting amnesty  
 11 for employers. And then you see the endorsement of Rios  
 12 and McGuire and Rios for being tough on employers.  
 13 And then this is the second page. It's, again,  
 14 just a criticism of the three.  
 15 And then the third page is a slate. It's an  
 16 endorsement of Rios, Rios, and McGuire with that tough  
 17 -- they brought back the tough police officer that we  
 18 saw the other day.  
 19 And then the, as I recall, there is a fourth  
 20 page but it's blank. Yeah. Unfortunately, it's not on  
 21 the slide show, but there is a fourth page, but it's  
 22 completely blank, so we didn't count it. It's just the  
 23 address page.  
 24 So the way we match this one is -- the way  
 25 we've already matched this one is we gave matching funds

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1 of one-fifth of the front page, and that's simply for  
2 the bottom part where they criticize Chase, Fillmore,  
3 and Pratt. We did not match the hands and I'll explain  
4 that to you.

5 In a second. And then on this page we matched  
6 it one-third of this whole page. That's one-third of  
7 one-third. That's one-third of the total document.  
8 It's -- it's a three-page document because we don't  
9 count the fourth page.

10 This is straightforward match and this is  
11 straightforward no match. The third page is a  
12 straightforward slate, so we don't match that at all.

13 Now, the issue is, should we have matched the  
14 handcuff picture? Normally, as I told you, we do that  
15 because it's part of the message. But here we have the  
16 so-called employer in handcuffs, so arguably this  
17 supports -- is part of the slate. But also it's also  
18 part of the message criticizing the folks who are being  
19 criticized here: Chase, Fillmore, and Pratt.

20 So we didn't feel comfortable issuing matching  
21 funds because the whole point of ratification is we only  
22 do it where it's a formality and we're confident you  
23 will match. Here we didn't know how you would want to  
24 act, so we didn't match. So, we leave that up to you.

25 We estimate that's three-fifths of the page.

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1 So, if you want us to match that, that would be  
2 three-fifths of one-third. I haven't done that  
3 calculation. But if you want us to do that, we'll match  
4 in that fashion.

5 But otherwise I ask you to match the remainder  
6 that we have matched, which is one-fifth of the first  
7 page and one-third of the second page.

8 COMMISSIONER KUNASEK: How could you tell that  
9 those are hands of an employer and not of an illegal?

10 MR. LANG: I made an assumption because the  
11 whole thing was talking about employers who hired  
12 illegal immigrants.

13 COMMISSIONER KUNASEK: Thank you.

14 COMMISSIONER PARKER: Well, I think the picture  
15 plays a significant role in the meaning.

16 MR. LANG: Oh, I agree.

17 COMMISSIONER PARKER: I think we would -- if I  
18 could find out what that cost --

19 CHAIRPERSON BUSCHING: I'm sorry. Sorry.  
20 Commissioner Parker, I didn't hear the last part. You'd  
21 like.

22 COMMISSIONER PARKER: I was asking what the  
23 dollar amount would be if we included the picture of the  
24 hands in handcuffs and the dollar amount.

25 MR. LANG: It would be approximately three

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1 times \$514 -- it wouldn't be approximately, it would be  
2 three times \$514.70 which is approximately \$1,550.

3 COMMISSIONER PARKER: Okay. I would like to  
4 make a motion then to --

5 CHAIRPERSON BUSCHING: Before you do that, let  
6 me see if there's anyone from the public that wishes to  
7 speak.

8 I don't see any, so please go ahead,  
9 Commissioner Parker.

10 COMMISSIONER PARKER: I would like to make a  
11 motion that we include the portion of page one that has  
12 the hands in handcuffs, so we add three -- you said  
13 three-fifths of the page; is that correct, Todd?

14 MR. LANG: That's my estimation. Obviously, we  
15 can do whatever you like.

16 COMMISSIONER PARKER: -- to the existing  
17 matching funds that we give to the candidates.

18 CHAIRPERSON BUSCHING: Is there a second?

19 COMMISSIONER KUNASEK: I would second that.

20 CHAIRPERSON BUSCHING: It's been moved by  
21 Commissioner Parker and seconded by Commissioner Kunasek  
22 that we match three-fifths of the front page, plus  
23 one-third of one-third of the total mailer to Pratt and  
24 Fillmore.

25 COMMISSIONER PARKER: Actually, four-fifths of

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1 the front page because you've got the bottom part we've  
2 already included.

3 CHAIRPERSON BUSCHING: You're correct. So, the  
4 motion is four-fifths of the front page, plus one-third  
5 of one-third of the total mailer to Pratt and Fillmore.

6 MR. LANG: Madame Chair, that would raise the  
7 matching funds from \$3,088 to \$4,107.56.

8 CHAIRPERSON BUSCHING: Four thousand one --

9 MR. LANG: \$4,107.56.

10 CHAIRPERSON BUSCHING: Okay. Any further  
11 discussion?

12 If not, the Chair will call for the question,  
13 all in favor say, "aye."

14 (Chorus of ayes.)

15 CHAIRPERSON BUSCHING: Opposed, nay?

16 Chair votes nay. Motion carries.

17 Item III(B) which is Laura Knaparek, Dale  
18 Despain, and Rose Crutcher.

19 Mr. Lang?

20 MR. LANG: Thank you, we have here another mail  
21 piece by the Arizona Democratic Party. This piece --  
22 you will notice that the calculation is changed  
23 slightly. We looked at it again and recommended a  
24 change. So, folks on the phone, the recommendation has  
25 changed from 70 percent matching to 80 percent matching,

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1 and from 15 percent for the other two to 20 percent.

2 And that's just based on the fact that we  
3 didn't feel it was appropriate to include the portion of  
4 the page with the address as a deduction. Because this  
5 page, this first page, is just a hit on Ms. Knaparek.

6 And so the -- a hundred percent of the first  
7 page should be matched to her and then you can see that  
8 20 percent of the second page goes to Crutcher and  
9 Despain, and then 80 percent of the second page -- or 70  
10 percent of the second -- 60 percent of the second page  
11 goes to Knaparek. And that's a total match of 80  
12 percent to Knaparek and 20 percent to Despain and  
13 Crutcher.

14 The cost is \$9,307.87. So the match would be  
15 \$7,446.29 to Knaparek and \$ 1,861.57 to Despain and  
16 Crutcher.

17 This isn't a slate. So there's not -- none of  
18 the other issues. This is pretty straightforward. The  
19 only issue for you is to figure out what percentages you  
20 want to break this piece down.

21 CHAIRPERSON BUSCHING: Mr. Lang, would you go  
22 through that once again. I'm not sure I followed you.

23 MR. LANG: We awarded -- we felt that the first  
24 page should be entirely matched because it's just a hit  
25 on Knaparek. The fact there's a portion for the address

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1 doesn't change that in our view.

2 CHAIRPERSON BUSCHING: So you're matching a  
3 hundred percent --

4 MR. LANG: Of the first page.

5 CHAIRPERSON BUSCHING: Okay.

6 MR. LANG: And then 60 percent or 55, you  
7 know -- 50 to 60 percent of the second page -- actually  
8 60 percent of the second page is against Knaparek and 40  
9 percent is against Crutcher and Despain.

10 CHAIRPERSON BUSCHING: And how did you get  
11 that?

12 MR. LANG: Well, she's certainly more than half  
13 of the top, and then she's also hit in the bottom fifth  
14 where they hit all three of them for helping special  
15 interest and hurting families. And then Crutcher and  
16 Despain are hit directly in a fifth and then as part of  
17 the three hit at the bottom. So it could be one-third  
18 of two-fifths of half could be the calculation for  
19 Crutcher and Despain, but we -- we -- we felt that --

20 CHAIRPERSON BUSCHING: One-third of two-thirds?  
21 I'm not following that.

22 MR. LANG: Well, one-third of -- I'm not sure I  
23 said that. I've said a lot of things. But the bottom  
24 -- again, I've divided that into fifths. So I  
25 considered the bottom part to be two-fifths of the

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1 second page and those hit Crutcher and Despain. The top  
2 is three-fifths and that hit --

3 CHAIRPERSON BUSCHING: Well, before you go on,  
4 I mean, they hit Knaparek, Crutcher, and Despain here.  
5 Here's Knaparek, Crutcher, and Despain there.

6 MR. LANG: That's right.

7 CHAIRPERSON BUSCHING: And here's Crutcher,  
8 Despain, and Knaparek.

9 MR. LANG: I didn't include Knaparek in that,  
10 but you could. You could have the whole document  
11 hitting Knaparek and the question then is how much is  
12 she matched?

13 Clearly, she's matched a hundred percent of the  
14 first page and three-fifths of the page it's just her.  
15 And one-fifth of the page -- for two-fifths of the page  
16 it's just her. So, it will be one-third of two-fifths  
17 of one-half -- whatever that is -- and then a hundred  
18 percent of three-fifths. And that all -- and so this is  
19 how we came out.

20 That's the correct -- that's the correct  
21 formula: One-third of two-fifths of one-half, whatever  
22 that is.

23 CHAIRPERSON BUSCHING: Of the total cost?

24 MR. LANG: Of the total cost.

25 COMMISSIONER KUNASEK: Can we get a number on

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1 that?

2 MR. LANG: Yeah, Daniel is working on that.

3 COMMISSIONER SCARAMAZZO: I'm kind of worrying  
4 about myself because I kind of understand what you're  
5 saying. Geez.

6 CHAIRPERSON BUSCHING: Well, do you want to  
7 stand up, Mr. Lang, and use your hands and demonstrate?

8 MR. LANG: Not particularly, but I will.

9 COMMISSIONER KUNASEK: Here's a pointer.

10 MR. LANG: Do we have the pointer in here, the  
11 laser pointer, Mike, that you love so much?

12 So this is one-fifth -- and Commissioners on  
13 the phone, I'm pointing in the second page to the point  
14 with her accomplices, the two pictures. This is  
15 one-fifth of the page. And I consider it to be  
16 criticizing just Crutcher and Despain, but it could be  
17 considered a criticism of all three because it talks  
18 about Knaparek's gang.

19 I don't see them running around the  
20 neighborhood spray painting, but nonetheless that's what  
21 they're called.

22 And then the bottom of the page is clearly --  
23 it's clearly one-fifth of the page and clearly a  
24 criticism of all three. The top three-fifths of the  
25 page is criticism of Laura Knaparek. And so the top

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1 part of the page will be three-fifths of one-half. And  
 2 the reason you'd say of one-half, is because this page  
 3 is half of the whole document.  
 4 COMMISSIONER PARKER: Right.  
 5 MR. LANG: And then when you go back to the  
 6 other page, that's one hundred percent of the Knaparek.  
 7 Or if you don't want to include the mailer portion, then  
 8 it will be four-fifths.  
 9 COMMISSIONER PARKER: And four-fifths of  
 10 one-half and the other two would get two-fifths of  
 11 one-half; is that correct?  
 12 CHAIRPERSON BUSCHING: That would be more than  
 13 -- yeah, see, there we go.  
 14 COMMISSIONER PARKER: If you're looking at  
 15 dividing it fifths, Crutcher and Despain take up two --  
 16 two-fifths, right?  
 17 MR. LANG: Right. But --  
 18 COMMISSIONER PARKER: And then Knaparek would  
 19 have the top three-fifths plus the bottom one-fifth?  
 20 MR. LANG: She'd have had one-third of the  
 21 bottom one-fifth, Commissioner.  
 22 COMMISSIONER PARKER: Okay.  
 23 MR. LANG: And one-third of the bottom  
 24 two-fifths if you include her in the second one with the  
 25 accomplices --

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1 COMMISSIONER PARKER: I got ya.  
 2 MR. LANG: -- because she is mentioned.  
 3 COMMISSIONER PARKER: Okay.  
 4 MR. LANG: However that works out. Daniel has  
 5 got the calculator revved up and ready.  
 6 COMMISSIONER PARKER: I can hear the gears  
 7 grinding over there.  
 8 MR. LANG: No, no, those are the gears in my  
 9 brain.  
 10 So, that's -- that's how we matched it.  
 11 To let you know how we matched it, we already matched it  
 12 and that was the earlier number, 70 percent to Knaparek  
 13 and 15 percent to Despain and Crutcher. That's because  
 14 we considered a third of the total to be criticism of  
 15 Despain and Crutcher and we split that. And we  
 16 considered 70 percent to be criticism of Knaparek.  
 17 That's how we did it.  
 18 Then we'd like you to ratify that or adjust as  
 19 you see fit and, you know, we'll adjust it accordingly.  
 20 COMMISSIONER JOLLEY: Commissioner -- I mean,  
 21 Chairperson Busching, I have a question of Todd Lang.  
 22 CHAIRPERSON BUSCHING: Yes. Go ahead,  
 23 Commissioner Jolley.  
 24 COMMISSIONER JOLLEY: Todd, on the first page  
 25 of the mailers, the ratification is for a hundred

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1 percent of the page?  
 2 MR. LANG: The part with the mailing address?  
 3 COMMISSIONER JOLLEY: Yes.  
 4 MR. LANG: That's what we recommended, but it  
 5 could easily an 80 percent match and considered 20  
 6 percent for the address?  
 7 COMMISSIONER JOLLEY: So that would be like  
 8 four-fifths, is what you would --  
 9 MR. LANG: Yeah, that would be four-fifths.  
 10 COMMISSIONER JOLLEY: Okay. I am more in favor  
 11 of that.  
 12 CHAIRPERSON BUSCHING: All right. Any other  
 13 questions of Mr. Lang?  
 14 Is there anyone from the public that wishes to  
 15 speak to this matter?  
 16 If not --  
 17 MR. LANG: Commissioners, I assure you we will  
 18 have rules providing specific guidelines on this for  
 19 your approval so that we don't have this trouble next  
 20 cycle.  
 21 CHAIRPERSON BUSCHING: Somebody want to venture  
 22 into the waters of making a motion?  
 23 COMMISSIONER PARKER: I'll try.  
 24 CHAIRPERSON BUSCHING: Commissioner Parker?  
 25 COMMISSIONER PARKER: On the front page I would

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1 move four-fifths, I guess, of 50 percent; is that right?  
 2 MR. LANG: Yeah, that would be four-fifths of  
 3 50 percent, Commissioner.  
 4 COMMISSIONER PARKER: And that would be for  
 5 Knaparek. And on the back page I would say three-fifths  
 6 of 50 percent, plus one-third of one-fifth for Knaparek.  
 7 And then for Despain and Crutcher, two -- or one-fifth,  
 8 plus one-third of one-fifth of this.  
 9 MR. LANG: Commissioner, so that I understand,  
 10 are you saying the bottom two-fifths should just be  
 11 one-third each because Knaparek is mentioned, or are you  
 12 saying --  
 13 COMMISSIONER PARKER: No, I'm saying Knaparek  
 14 is the top three-fifths plus one-third of the bottom  
 15 one-fifth and --  
 16 MR. LANG: Okay. And then Crutcher and Despain  
 17 get one-third of the bottom one-fifth and one-half of  
 18 the second to bottom one-fifth?  
 19 COMMISSIONER PARKER: Yes.  
 20 CHAIRPERSON BUSCHING: Is there a second?  
 21 COMMISSIONER JOLLEY: I'll second that.  
 22 Commissioner Jolley.  
 23 CHAIRPERSON BUSCHING: It's been moved by  
 24 Commissioner Parker and seconded by Commissioner Jolley  
 25 that on page one we match 80 percent and on page two --



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1 and that would go to Knaparek. And on page two we match  
 2 60 percent for the top portion to Knaparek, 50 percent  
 3 each to Crutcher and Despain for the four-fifths of that  
 4 page, and one-third each to Knaparek, Crutcher, and  
 5 Despain for the bottom one-fifth of that page; is  
 6 that -- anyone have any objection to the way I restated  
 7 it, which is the same as it was stated in the first  
 8 place hopefully?  
 9 If not, the Chair will call for the question,  
 10 all in favor say, "aye."  
 11 (Chorus of ayes.)  
 12 CHAIRPERSON BUSCHING: Opposed, nay?  
 13 Chair votes aye. Motion carries.  
 14 Item III(B)(1) also a Knaparek, Despain, and  
 15 Crutcher mailer.  
 16 Mr. Lang?  
 17 MR. LANG: All right. Commissioners, this is  
 18 "Deal or no deal." And, unfortunately, this is the  
 19 best --  
 20 (Whereupon dialing is heard through the  
 21 speakerphone.)  
 22 COMMISSIONER JOLLEY: I'm right here.  
 23 COMMISSIONER PARKER: I'm here.  
 24 MR. LANG: Okay. This is "Deal or no deal."  
 25 That portion of your book for those of you on the phone,

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1 I'm sorry we don't have a better copy. That's the best  
 2 we can do. It was faxed to us and that's the quality we  
 3 got.  
 4 This is another typical lead-in page. The  
 5 first page is a, you know, reference to pop culture.  
 6 And then saying, "Meg Burton Cahill the wrong move."  
 7 That sets you up.  
 8 And then you look at the next page -- well, you  
 9 try to look at the next page. And, "Special interests  
 10 are offering a bad deal to families." And then you see  
 11 what they say. And then on the left the Democrats are  
 12 saying "No deal to special interest." There's actually  
 13 three Democrats there: Ableser, Burton Cahill, and I  
 14 can't think of his name.  
 15 MS. VARELA: Schapira.  
 16 MR. LANG: Yeah, Schapira. Thank you.  
 17 And then on the right you have the three  
 18 Republican candidates, "Making a bad deal for our  
 19 families."  
 20 And then the second -- this is long -- this  
 21 whole piece here, what's the deal with the three on one  
 22 side and the three on the other? That's the topside.  
 23 And then the bottom side is a breakdown on employer  
 24 amnesty. And you have on the right the Republicans  
 25 saying, "Deal for employer amnesty." And then the folks

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1 on the left want to punish corporations who hire illegal  
 2 immigrants.  
 3 And then at the bottom is a slate, which you  
 4 can't really read there, but it's the three candidates  
 5 saying, "No deal to the special interests every time."  
 6 And then the last page isn't counted because  
 7 it's just the mailing page, so we don't count that at  
 8 all.  
 9 So the percentages are worked then out of  
 10 three, not out of four. Then you look to see how we  
 11 broke it down. The way we did it was one-third of  
 12 two-thirds of the inside. So, this page was matched a  
 13 hundred percent, the first page, the "Deal or no deal,"  
 14 because that's just a lead in. So they got one-third of  
 15 that because that doesn't meet the slate exemption. So  
 16 they got one-third of that each.  
 17 And for this they each got one-third of  
 18 two-thirds for this, because one-third of the page is  
 19 deemed to be hitting -- deemed to be -- they each got  
 20 one-third because there's three candidates and  
 21 two-thirds of it was a hit and one-third of it was a  
 22 slate.  
 23 So the top of the page there where it says,  
 24 "What's the deal?" And then the very bottom -- the top  
 25 of the page was -- was matched because it's not part of

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1 the slate, because it's a criticism -- it's both. You  
 2 can go either way, but we considered it part of the  
 3 criticism. But then the bottom is taken out because it  
 4 is a slate.  
 5 So that's how we did it. Two-thirds --  
 6 two-thirds of the inside pages were matched.  
 7 COMMISSIONER PARKER: On your chart of how much  
 8 they're going to receive, you have \$534 for Despain and  
 9 Crutcher. You said each or total?  
 10 MR. LANG: Each.  
 11 COMMISSIONER PARKER: Won't that exceed the  
 12 cost of the mailer?  
 13 MR. LANG: Yeah. Because they get the total  
 14 mailer so they get \$3,000 for the first page -- they get  
 15 \$2,326 for the first page because that's -- the entire  
 16 mailer was \$9,307.  
 17 (Whereupon an off-the-record discussion is held  
 18 between Ms. Diana Varela and Mr. Todd Lang.)  
 19 MR. LANG: That's right. The big reason,  
 20 Commissioner Parker, is that, remember, we didn't count  
 21 the fourth page at all.  
 22 COMMISSIONER PARKER: Right.  
 23 MR. LANG: So they're going to get a higher  
 24 percentage because instead of dividing out of four we're  
 25 dividing out of three. So the percentages are going to

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1 work out to be higher numbers because we're not counting  
 2 the fourth page.  
 3 COMMISSIONER PARKER: Okay.  
 4 CHAIRPERSON BUSCHING: But, Mr. Lang, I'm  
 5 confused. In the past I thought that the total that we  
 6 expended for matching funds never exceeded the cost of  
 7 the mailer.  
 8 MR. LANG: Normally it wouldn't, but in this  
 9 case because of the fact we're not counting that fourth  
 10 page, it will. Because instead -- because like, for  
 11 instance, this first page is worth one-third of the  
 12 total cost, when really it's only one-fourth of the  
 13 total cost. But because we're not counting that fourth  
 14 page as part of the mailer, the percentages are  
 15 different.  
 16 CHAIRPERSON BUSCHING: It still shouldn't --  
 17 MR. LANG: Plus we're just doing portions. So  
 18 this is two-thirds. They're getting two-thirds of this  
 19 page and all of this page, so -- and there's three  
 20 candidates.  
 21 CHAIRPERSON BUSCHING: I mean --  
 22 MR. LANG: We'll just have to check our math.  
 23 CHAIRPERSON BUSCHING: Yeah. I mean under your  
 24 logic --  
 25 MR. LANG: It should be about a thousand

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1 dollars on the first page to each of them, and two --  
 2 two-thirds of a thousand dollars for this page.  
 3 CHAIRPERSON BUSCHING: Under your logic, if you  
 4 had a 10-page mailer and nine of them being blank, or  
 5 eight of them being blank, you'd --  
 6 COMMISSIONER PARKER: You're looking at \$3,300  
 7 a page, if it's three pages at \$9,300 -- or \$3,100.  
 8 MR. LANG: \$3,100 a page. I agree. That's  
 9 about a thousand dollars a candidate.  
 10 COMMISSIONER KUNASEK: Well, if I might, while  
 11 you're figuring that out, we've already voted on two of  
 12 the issues this morning that the total comes up to more  
 13 than the cost of the mailer.  
 14 (Whereupon an off-the-record discussion is held  
 15 between Mr. Daniel Ruiz and Mr. Todd Lang.)  
 16 CHAIRPERSON BUSCHING: Which ones did we do  
 17 that on?  
 18 COMMISSIONER KUNASEK: Well, looks to me like  
 19 we voted on III(A)(1) and the total we awarded was more  
 20 than the cost of the mailer.  
 21 Likewise on III(B). If you look at that, we've  
 22 got awarded over \$10,000.  
 23 CHAIRPERSON BUSCHING: You're correct.  
 24 COMMISSIONER PARKER: Okay.  
 25 (Whereupon an off-the-record discussion is held

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1 between Mr. Daniel Ruiz and Mr. Todd Lang.)  
 2 CHAIRPERSON BUSCHING: Staff is conferring.  
 3 MR. LANG: The staff has given me their  
 4 justification for why it works out that way, but I want  
 5 to look at it myself.  
 6 CHAIRPERSON BUSCHING: Well, I'd like to get  
 7 some legal advice. So I'm going to make a motion that  
 8 we go into executive session.  
 9 COMMISSIONER KUNASEK: Second.  
 10 CHAIRPERSON BUSCHING: It's been moved by the  
 11 Chair and seconded by Commissioner Kunasek that we go  
 12 into executive session. All in favor say, "aye."  
 13 (Chorus of ayes.)  
 14 CHAIRPERSON BUSCHING: Opposed, nay?  
 15 Chair votes aye. Motion carries.  
 16 Minutes of and discussions made in an executive  
 17 session are confidential pursuant to ARS Section  
 18 38-431.03(B) and shall not be released to anyone unless  
 19 specifically authorized by law.  
 20  
 21 (Whereupon the public retires from the meeting  
 22 room.)  
 23  
 24 (Whereupon the Commission is in executive  
 25 session from 10:16 a.m. until 10:43 a.m.)

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1  
 2 (Whereupon all members of the public are  
 3 present and the Commission resumes in general session.)  
 4  
 5 CHAIRPERSON BUSCHING: We will resume regular  
 6 session. We're currently on Agenda Item III(B)(1). We  
 7 just received legal advice. And, is there any  
 8 discussion?  
 9 I don't believe I've asked if there's anyone  
 10 from the public that wishes to speak to this matter.  
 11 Sir, if you'd state your name and limit your  
 12 comments to five minutes, please.  
 13 MR. EHST: Madame Chair, Commissioners, excuse  
 14 me, my name is Eric Ehst. I represent the Clean  
 15 Elections Institute.  
 16 Not knowing what legal advice you received on  
 17 this matter, my comments might be moot. But I believe  
 18 the Clean Elections Act statute is fairly clear on this  
 19 matter, that matching funds are provided to  
 20 participating candidates in the amount of the actual  
 21 funds of an independent expenditure that were to attack  
 22 -- that were spent to attack that participating  
 23 candidate.  
 24 So, I don't believe that you can interpret the  
 25 statute in any way other than you can't issue matching

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1 funds for more than 100 percent of what was spent in the  
2 case of the attack. Because it's a one-for-one match to  
3 the candidate who was attacked.

4 So, if one-third of a piece is attacking a  
5 candidate, then one-third of the amount that is to be  
6 matched -- one-third of the expense of that piece would  
7 be matched to that candidate. And I don't know how you  
8 could possibly add that up to come out to more than 100  
9 percent of the amount spent by the independent  
10 expenditure.

11 CHAIRPERSON BUSCHING: Is there questions of  
12 Mr. Ehst?

13 Mr. Ehst, I guess I have a question for  
14 you. And that is, if you have a situation where three  
15 candidates are being attacked but they don't necessarily  
16 run as a slate themselves, I mean one senate candidate  
17 and two house candidates, say I'm one of the house  
18 candidates and I'm being attacked, what you're saying  
19 then is that I should only get one-third of the total  
20 cost of the mailer, but it's -- I'm going to need to  
21 send to the same number of people as the other two  
22 candidates, so -- what do you think I should do?

23 MR. EHST: Madame Chair, I understand the  
24 question. But, say, \$10,000 is spent in an attack on  
25 two candidates, the person spending that \$10,000 is not

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1 spending \$10,000 to each, to attack two candidates,  
2 they're spending an aggregate total of \$10,000 to attack  
3 two different people.

4 So, the way the Commission has traditionally  
5 viewed this, and the way I believe the statute was  
6 intended, is that the attack on each of those individual  
7 candidates is \$5,000 so that it's split equally.

8 I -- I don't see how you can say that something  
9 that totals \$10,000 in expenditure is \$10,000 worth of  
10 attack on one person plus \$10,000 worth of attack on a  
11 second person.

12 CHAIRPERSON BUSCHING: Okay. Thank you. Any  
13 other questions of Mr. Ehst?

14 COMMISSIONER KUNASEK: Well, I could -- I would  
15 only comment. As we reviewed the statute, the statute  
16 is kind of written in a negative way. It say's each of  
17 the opposing candidates. Each of the opposing  
18 candidates.

19 MR. EHST: Commissioner Kunasek, Commissioners,  
20 that part of the statute applies if you're -- if you're  
21 doing an independent expenditure that is a positive  
22 piece about a candidate. Then the statute says that  
23 each of the opposing participating candidates gets  
24 matched for the amount that is spent to promote one  
25 candidate.

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1 So in that case it can add to more than 100  
2 percent. But in the case of an attack ad, I do not  
3 believe you can add it up to a more than 100 percent  
4 because you're not spending that entire 100 percent to  
5 attack each of the multiple candidates listed in the  
6 mailer or whatever it is.

7 CHAIRPERSON BUSCHING: Thank you. Any other  
8 questions of Mr. Ehst?

9 If not, is there anyone else from the public  
10 that wishes to speak to this?

11 MR. MADDOX: One main point only.

12 CHAIRPERSON BUSCHING: Sir.

13 MR. MADDOX: David Maddox with the Len Munsil  
14 Campaign.

15 Obviously, I agree with your interpretation of  
16 the statute and purpose. You guys are trying to level  
17 the playing field. From the campaign statute, when  
18 you're running against somebody, if they send it to  
19 10,000 people and you get enough money to respond to  
20 2,500, you haven't done anything. There are times,  
21 obviously, it's going to be have to be more to be fair.  
22 That's all I have to say.

23 You are to level the playing field. And it's  
24 impossible to level the playing field unless you give  
25 somebody enough money to respond equally to the attack

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1 made on them. An attack ad is worse than a positive ad.  
2 So, you should probably in those instances look more  
3 favorably on giving more in those circumstances.

4 CHAIRPERSON BUSCHING: Except let me ask you  
5 the flip side of my question that I asked to Mr. Ehst  
6 then. Let's say there's, again, three candidates that  
7 are being attacked. And so now you've said that we  
8 should give equal amounts of the mailer. For example,  
9 the cost of the mailer is three times to each of those  
10 three candidates.

11 But now I do favor and run along with somebody  
12 else, one of my co-candidates, so now I get to send two  
13 mailers out to everybody in my district whereas  
14 previously I only could send one because I was sending  
15 my mailer separately.

16 MR. MADDOX: Right. The answer to that is real  
17 simple, make slate mail be slate mail and it won't be  
18 positive or negative. It will be a list of candidates  
19 and what they're running for and what party affiliation  
20 they're with and you will eliminate all of this.

21 That's the answer to this question. We can't,  
22 obviously, govern whether two people do something  
23 together or separate. You can govern, for example, if  
24 it is one of those ads -- and I've seen you do this --  
25 where it goes out either statewide and, you know, it

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1 attacks a number of candidates and one candidate is only  
 2 running in a district, well, okay, they only need enough  
 3 money to send it to their district. But you can't  
 4 control the other.  
 5 But if you make slates be slates, you don't  
 6 have a problem.  
 7 CHAIRPERSON BUSCHING: Thank you. Thank you.  
 8 Any other questions for Mr. Maddox?  
 9 MR. BECKER: Sorry, didn't mean to be  
 10 disrespectful.  
 11 CHAIRPERSON BUSCHING: Not at all.  
 12 COMMISSIONER SCARAMAZZO: Not at all.  
 13 CHAIRPERSON BUSCHING: Anyone else from the  
 14 public wish to speak to this matter? Ma'am?  
 15 MR. LOWE: Madame Chair, Commissioners, my name  
 16 is Lauren Lowe and I'm here on behalf of the Arizona  
 17 Democratic Party.  
 18 And I just wanted to point out that the statute  
 19 allows for matching funds to be granted in the amount of  
 20 expenditure against a party, not in the amount required  
 21 or required to effectively controvert that negative  
 22 expenditure. To do other wise would be to have  
 23 candidates coming before you saying even though this  
 24 expenditure was only \$3,000 against us, we really need  
 25 \$10,000 to effectively get our message out that

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1 treated as expenditures to each opposing candidate."  
 2 So, of course, in a house race there is more  
 3 than one opposing candidate. And then independent  
 4 expenditures in (C)(2) also allows to be treated as each  
 5 of the opposing candidates. And then (C)(6) puts some  
 6 limitations on that.  
 7 But I think there is an intention for  
 8 candidates to be able to respond in-kind and I'm  
 9 comfortable with the recommendation that we made.  
 10 CHAIRPERSON BUSCHING: Okay. Thank you. Any  
 11 discussion or a motion?  
 12 COMMISSIONER SCARAMAZZO: I'd put that in the  
 13 form of a motion.  
 14 CHAIRPERSON BUSCHING: Second?  
 15 COMMISSIONER KUNASEK: Second.  
 16 CHAIRPERSON BUSCHING: It's been moved by  
 17 Commissioner Scaramazzo and seconded by Commissioner  
 18 Kunasek that we adopt staff's recommendation with  
 19 respect to Item III(B)(1) which would provide \$5,429.26  
 20 each to Knaparek, Despain, and Crutcher. Any further  
 21 discussion?  
 22 If not, the Chair will call for the question,  
 23 all in favor say, "aye."  
 24 (Chorus of ayes.)  
 25 CHAIRPERSON BUSCHING: Opposed, nay?

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1 contradicts that negative message.  
 2 I would like to point out that you're stepping  
 3 down a very, very slippery slope. Not to mention the  
 4 fact it's directly in contradiction to what the statute  
 5 says.  
 6 CHAIRPERSON BUSCHING: Thank you. Any  
 7 questions for Ms. -- Love is it?  
 8 MS. LOWE: Lowe.  
 9 CHAIRPERSON BUSCHING: Could you spell that,  
 10 please?  
 11 MS. LOWE: L-O-W-E.  
 12 CHAIRPERSON BUSCHING: Okay. Thank you.  
 13 Anyone else from the public wish to speak  
 14 to this matter?  
 15 If not, Mr. Lang?  
 16 MR. LANG: Commissioners, I would ask that you  
 17 match in under III(B)(1) in the amount recommended.  
 18 That you approve that match -- ratify that match at  
 19 \$5,429.26 to Knaparek, Despain, Crutcher.  
 20 I would point out that 952(C)(1) and (2)  
 21 provide us clear guidance that, in fact, both attacks  
 22 and supporting independent expenditures can be matched  
 23 when it's done against more than one person it can be  
 24 doubled up. If you look at (C)(1), "Independent  
 25 expenditure against as participating candidate shall be

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1 Chair votes aye. Motion carries.  
 2 Item IV, discussion and possible action on the  
 3 following enforcement matters: A) MUR 06-0022, Israel  
 4 Torres proposed settlement agreement.  
 5 Mr. Lang?  
 6 MR. LANG: Madame Chair and Commissioners, you  
 7 have before you a proposed conciliation agreement in MUR  
 8 06-0022. This is a narrow issue. It's an issue  
 9 regarding campaign T-shirts. As you will recall, the  
 10 Israel Torres Campaign expended -- well, actually,  
 11 supporters of the Israel Torres Campaign bought T-shirts  
 12 and then gave them out to volunteers under the mistaken  
 13 belief that the campaign could not do that.  
 14 The issue for us in terms of enforcement was  
 15 that they called staff three times to discuss this and  
 16 apparently the message never got through. While I  
 17 remain quite confident that staff gave them the proper  
 18 message, because I've heard the presentations made by  
 19 staff and they are consistent with our position in this  
 20 matter.  
 21 Now, I do appreciate the fact that this person  
 22 or the staff for the Torres Campaign tried repeatedly to  
 23 get it right, the fact she didn't get it right is a  
 24 problem which is why we're here.  
 25 But you see what we recommend is that simply

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1 the campaign pay for the shirts. That way there's no  
 2 effective in-kind contribution, the matter is rectified,  
 3 the money is no longer available to the Torres Campaign.  
 4 In fact, they've already done so.

5 And I -- and in this small matter I recommend  
 6 no further penalty. Given the facts -- the unusual  
 7 facts of this case and the lack of intent.

8 I would point out that the Torres investigation  
 9 is ongoing in other matters. There were a number of  
 10 issues and we're receiving a great deal of information.  
 11 Eric and I and others on staff are working hard on this,  
 12 but it's not something that could be wrapped up in a  
 13 week. That's why this is the only matter before you  
 14 today.

15 So there you have it. If you have any  
 16 questions, I'll be happy to answer.

17 CHAIRPERSON BUSCHING: Are there any questions  
 18 of Mr. Lang?

19 Is there anyone from the public that wishes to  
 20 speak to this matter?

21 If not, discussion or a motion?

22 COMMISSIONER KUNASEK: I would move that MUR  
 23 06-0022 be approved.

24 COMMISSIONER SCARAMAZZO: Second.

25 CHAIRPERSON BUSCHING: It's been moved by

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1 Commissioner Kunasek and seconded by Commissioner  
 2 Scaramazzo that we approve the proposed conciliation  
 3 agreement in MUR 06-0022. All in favor say, "aye."  
 4 (Chorus of ayes.)

5 CHAIRPERSON BUSCHING: Opposed, nay?

6 Chair votes aye. Motion carries.

7 Item IV B), MUR 06-0034, Janet Napolitano  
 8 reason to believe.

9 MR. LANG: Thank you, Madame Chair,  
 10 Commissioners. This complaint was filed by David Maddox  
 11 on behalf of the -- well, actually, I guess it was just  
 12 on behalf of David Maddox. He's affiliated with the  
 13 Munsil Campaign.

14 There are two concerns he raises. One  
 15 regarding the reporting of subvendors, which as you know  
 16 is a problem we've had in several races. And the other  
 17 is an improper use of funds constituting -- making them  
 18 expressed advocacy; and, therefore, an improper in-kind  
 19 contribution.

20 Regarding the subvendors, we had the unusually  
 21 named company used by Napolitano Campaign for signs, and  
 22 bumper stickers, and for other purposes. That is  
 23 Medcare Resources which sounds like an ambulance  
 24 company. But, in fact, as you saw in the response --  
 25 you do have the response from the Napolitano Campaign

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1 which is at Exhibit B, I should have pointed that out to  
 2 you. And then you have a copy of the book along with  
 3 the note from the Governor and that sort of thing. Lots  
 4 of nice pictures back there.

5 Although it has an unusual name, this company  
 6 is in the business of providing signs, and fliers, and  
 7 the like, but they do use subvendors. The Napolitano  
 8 Campaign was unaware of that because they just used them  
 9 as other campaigns used them. Again, you see in the  
 10 response there's several issue campaigns that used them  
 11 as well.

12 When they discovered that there were subvendors  
 13 involved, the Napolitano Campaign agreed to amend their  
 14 reports. And, in fact, their campaign treasurer met at  
 15 some length with Daniel Ruiz to get the campaign reports  
 16 right and to get the issues resolved. They have done  
 17 that and in accordance with our usual practice.

18 Because they have agreed to provide the  
 19 subvendors, I recommend that the Commission find no  
 20 reason to believe there is a violation. Although,  
 21 technically they haven't initially provided that  
 22 information, as we've done in other -- every other case,  
 23 I recommend now that with the voters have the  
 24 information I recommend we not do the enforcement.

25 As to the children books. This is something

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1 that has come up in several races, including Brewer,  
 2 Goddard and Horne. When candidates engage in public  
 3 education or public communication through their official  
 4 actions, obviously it raises the eye of their opponents.  
 5 And we understand that and we understand why that would  
 6 be annoying. But, nonetheless, this sort of education  
 7 is something that's part of the job.

8 These books -- in this cases, the book that was  
 9 sent out to parents. It's our understanding that the  
 10 Governor's Office of Children, Youth, and Family which  
 11 issued this book did this sort of thing before the  
 12 Governor was even in office. So, this is something  
 13 traditional.

14 It is not something in any way could be deemed  
 15 expressed advocacy under the statute, under 16-901.01.  
 16 It just simply doesn't advocate any one election or  
 17 defeat.

18 Although, it does prominently feature the  
 19 Governor. As you can see in the picture, it includes a  
 20 picture of her, includes a statement by her, and paints  
 21 Napolitano in a light. Put simply, it certainly isn't  
 22 expressed advocacy inasmuch it benefits the campaign.  
 23 It's simply a perk of the job. But, again, the job does  
 24 require these sorts of educational efforts.

25 I would note that the FEC and the state of

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1 California prohibit educational booklets to feature the  
 2 name of the candidates issuing the book. But that's a  
 3 specific prohibition, one that we don't have here in  
 4 Arizona. And so, so long as that it is the case, this  
 5 is appropriate and so I recommend no reason to believe.  
 6 CHAIRPERSON BUSCHING: Thank you. Are there  
 7 questions of Mr. Lang?  
 8 COMMISSIONER KUNASEK: When -- when were these  
 9 produced and distributed?  
 10 MR. LANG: It was sometime earlier. I think  
 11 the letter is dated -- I know Mr. Gordon or Ms. Kim can  
 12 tell us. Looks like November --  
 13 COMMISSIONER PARKER: The Governor has been  
 14 putting out those books though.  
 15 CHAIRPERSON BUSCHING: I'm sorry, Commissioner  
 16 Parker?  
 17 COMMISSIONER PARKER: The Governor has been  
 18 putting out these books for the last number of years,  
 19 but I think she was the first Governor to do so.  
 20 MR. LANG: Let's see, they're distributed every  
 21 fall.  
 22 COMMISSIONER JOLLEY: Well, according to the  
 23 letter signed by Andrew Gordon it states that this  
 24 program was established in 2003.  
 25 MR. LANG: Okay. Then I was wrong. I was

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1 MR. MUNSIL: I would like to address -- bear  
 2 with me, I'm not a public speaker. Thank you for the  
 3 opportunity to speak on this matter. I wish to address  
 4 Mr. Gordon's response on the issue of the Napolitano  
 5 Campaign reporting and subvendors.  
 6 Is it okay if I read this?  
 7 COMMISSIONER SCARAMAZZO: Certainly. Whatever  
 8 you're comfortable with.  
 9 CHAIRPERSON BUSCHING: Yes.  
 10 MR. MUNSIL: First though let me say that I  
 11 would like to express my appreciation to staff of the  
 12 Commission. I have attended almost all of these  
 13 meetings since I became treasurer in January. Every  
 14 staff member that I have had occasion to talk or meet  
 15 with has been courteous and professional. Mr. Ruiz has  
 16 been especially helpful in answering my many questions.  
 17 I take my responsibility as treasurer very serious.  
 18 Second as to the release to Mr. Lang's decision  
 19 concerning the Napolitano Campaign reporting their  
 20 subvendors, I agree with the decision. The precedent  
 21 has long been established that the campaign may satisfy  
 22 the missing subvendor detail by filing an amended  
 23 report. Our campaign has also been allowed to do that.  
 24 However, Mr. Gordon's dismissal in two simple  
 25 paragraphs of the failure of their campaign to properly

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1 wrong about that. That's something we were looking into  
 2 and weren't able to confirm. So, that corrects that. I  
 3 thought there had been a previous program that was  
 4 similar.  
 5 Regardless of when it was made, the fact is it  
 6 doesn't constitute expressed advocacy and just as  
 7 Secretary Brewer's voter guides don't constitute  
 8 expressed advocacy even though they include their name.  
 9 So, I recommend the Commission find no reason  
 10 to believe.  
 11 CHAIRPERSON BUSCHING: Thank you. Other  
 12 questions of Mr. Lang?  
 13 If not, is there anyone from the public that  
 14 wishes to speak to this matter?  
 15 Sir, please state your name and limit your  
 16 comments to five minutes.  
 17 MR. MUNSIL: I'll try. My name is Lee Munsil.  
 18 I'm the treasurer for the Munsil for Governor Campaign  
 19 and I'm also the father of the candidate.  
 20 COMMISSIONER PARKER: Can you speak up? I can  
 21 hardly hear you.  
 22 MR. MUNSIL: I'm sorry. My name is Lee Munsil.  
 23 I'm the treasurer for the Munsil for Governor Campaign  
 24 and I'm also the father of the candidate.  
 25 COMMISSIONER PARKER: Thank you.

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1 report the subvendor detailing deserves to be answered  
 2 and placed into the record.  
 3 On the issue of Medcare Resources, LLC, a  
 4 company that specializes in ambulance services of some  
 5 sort.  
 6 I'll stop for a minute there. According to the  
 7 Arizona Commission, they're in the ambulance business.  
 8 I have been to their facility and in addition to seeing  
 9 Janet Napolitano signs in the back, I have seen several  
 10 ambulances parked in the parking lot. So there's some  
 11 sort of ambulance involvement. I do not know the level  
 12 or detail. I'll continue.  
 13 Mr. Gordon would have us to believe that no one  
 14 associated with the campaign was aware of the fact an  
 15 ambulance company might have to use subvendors to  
 16 produce campaign signs. It would seem to me that if I  
 17 was calling an ambulance company for campaign signs, my  
 18 first question would be: Where are you getting these  
 19 signs?  
 20 Also, he refers to Medcare Resources, LLC as a  
 21 general vendor for signs and bumper stickers. The use  
 22 of the word "general" almost implies there must also be  
 23 specific vendors.  
 24 He then refers to the amended report they filed  
 25 on October 30th covering the period October 3rd to

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1 October 18th. This will be during the general election  
2 period. What he doesn't bother to tell you is that  
3 their amended report also amended data that was reported  
4 in August 31st in the primary period and way back to May  
5 30th during the primary election period.

6 The original report showed that on May 30th  
7 they had an expenditure of \$45,000 to Medicare Resources  
8 for signs. On October 30th, five months later, their  
9 amended report now shows that \$31,736 really went to AA  
10 Signs and Screenprint Company, and the other \$3,360 went  
11 to Home Depot for stakes. And only, \$9,904 actually  
12 stayed with Medicare Resources for, quote, sign  
13 production and placement fee.

14 By the way, I refer to Exhibits A and B.  
15 Exhibit B which is the response, mentions -- I'm sorry.  
16 Exhibit A, first of all. Mr. Maddox's complaint does  
17 not mention Home Depot or any \$960 or anything else.  
18 The Respondent's -- Exhibit B is the response. It also  
19 does not mention Home Depot or any expenditure amounts.

20 Mr. Lang's recommendation does mention, I  
21 believe, it was a \$960 expense to Home Depot as if this  
22 is no big thing that we forgot to report \$960 and here's  
23 our report.

24 Nine other campaigns that also said dealt with  
25 the vendor and reported in the same way. If that's

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1 true, I imagine the Commission staff will have to notify  
2 all of those campaigns that they need to file amended  
3 reports and properly identify the subvendors that were  
4 used.

5 Now, this issue of media buys, which again this  
6 was never mentioned. This is part of Mr. Maddox's  
7 complaint. The issue of a media buys from Murphy Putnam  
8 Shorr & Partners is even more disturbing. In his  
9 answer, he specifies no dates but appears to be  
10 referencing their campaign's purchase of media time on  
11 October 9th.

12 I say this because he refers to the amount  
13 outstanding yet available to purchases more media time.  
14 The amended reported does show \$136,704.33, that is  
15 excluding the \$50,000 that is, in fact, a credit deposit  
16 as of October 9th. He states that, "Now that we know  
17 how much has gone to each station -- TV station -- and  
18 when, we are in a position to provide that information.  
19 We could not have provided it earlier."

20 That certainly sounds reasonable. But, wait.  
21 Again, Mr. Gordon fails to tell you that way back in the  
22 primary election period, on October 31st the campaign  
23 paid MPS&P the sum of \$220,00 for media buys. No  
24 subvendor detail was provided whatsoever. Are we  
25 expected to believe that they could not get the detailed

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1 breakdown for those August 31st expenditures until  
2 October 30th? And when they filed their amended report  
3 after being notified of Mr. Maddox's complaint.

4 As treasurer I can tell you I was able to get  
5 all the channel information I needed by the time of the  
6 primary reported period and I reported it in our report.

7 In the primary period that \$220,000 represented  
8 about 48 percent of the primary funding awarded to them  
9 by CCEC.

10 I need to mention a little about their amended  
11 reports. I'll use the \$220,000 primary expenditure as  
12 an example. But the same situation occurred with their  
13 later \$250,000 general expenditure to the same vendor.  
14 The original report showed only a \$250,00 for a media  
15 buy for MPS&P -- that's the developer, contractor,  
16 whatever -- a lump sum amount with no detail.

17 After Mr. Maddox's complaint against them, they  
18 amended their reports. Did they specify the subvendors  
19 as required? No. The first amended reports broke the  
20 \$220,000 down into four different geographical market  
21 areas. And they listed so many dollars for the Phoenix  
22 area, so many dollars for Tucson area, so many dollars  
23 to Yuma are, and there was a little left over. This was  
24 in the primary period, by the way.

25 The sum of that was \$220, but there's still no

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1 subvendor detail whatsoever. The companies weren't  
2 listed and the amount they paid the generals weren't  
3 listed.

4 Then they filed a second report, a second  
5 amendment. I guess they were told that that probably  
6 wasn't satisfactory since they didn't identify the  
7 subvendors.

8 The second amended report shows that -- I'm  
9 getting this confused. Sorry. It's still did not meet  
10 the law's requirement as it still shows the expenses  
11 being paid to MPS&P with a notation on the memo line  
12 referring to the TV channels involvement.

13 That by the way, I'll refer to as Method B the  
14 method I first used when I reported subvendors and I was  
15 told by the Commission I couldn't use that method and I  
16 should go back to the other method I was taught in  
17 class. There were two methods we were taught in class  
18 regarding subvendors.

19 Okay. Finally, on November 3rd, just three  
20 days ago, they filed a third amended report and they  
21 finally got it right.

22 In closing, let me offer the following  
23 comments. In one of the complaints filed against our  
24 campaign by the Democratic Party, I believe, concerning  
25 how we failed to report phone bank expenses? We filed

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1 an amended report showing the subvendor detail as  
 2 requested. We were accused of trying to game the  
 3 system. And our consultant was insulted by saying that  
 4 he was a well-known professional and should have known  
 5 how to report subvendors, as if anyone did.

6 In fact, the consultant had provided me with  
 7 all the correct information from the start. I made a  
 8 decision to report subvendors using what I'll call  
 9 Method B. There were two methods of reporting  
 10 subvendors shown to us in the CEC class -- CCEC class.  
 11 And later it was decided by CCEC that only Method A  
 12 would be allowed.

13 Mr. Gordon has failed to provide any statements  
 14 or affidavits from the candidate's manager -- the  
 15 candidate's campaign manager, the treasurer, or anyone  
 16 else. He's only the counsel for their campaign. I will  
 17 assume that he was not given the facts and I will not  
 18 accuse him or anyone else of trying to game the system.  
 19 Thank you.

20 CHAIRPERSON BUSCHING: Thank you, sir.

21 Are there questions of Mr. Munsil?

22 COMMISSIONER KUNASEK: Madame Chair, I have a  
 23 question, not necessarily of Mr. Munsil. But, you know,  
 24 again, I probably shouldn't speak until I know more.  
 25 But didn't we have a problem a couple of cycles back

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1 future all the campaigns play by the rules and do it  
 2 right.

3 I apologize for the inconvenience for those of  
 4 you who burned the midnight oil but it's important that  
 5 the subvendors be laid out there so the public can know.

6 I would like to go forward with the second part  
 7 which is the question of the school books and the  
 8 distributions. And, frankly, ultimately looking forward  
 9 the signs and all the rest of it that people are using.  
 10 The real issue here in fairness, and I think that's what  
 11 Clean Elections is about, deals with incumbency versus  
 12 challenge.

13 And when you have an incumbent that is doing  
 14 anything -- and if you look up the definition of  
 15 expenditure, I'm not talking about independent  
 16 expenditure, just look at the straight definition of  
 17 expenditure, and it basically says, "Anything of value  
 18 which is given for the purpose of influencing an  
 19 election."

20 Now, that's a pretty strong statement. And I  
 21 would contend very clearly, you know, we attached it in  
 22 my letter, I put it in there, I know when they say they  
 23 distributed these books. But a parent brought one of  
 24 those books home and sent out an e-mail saying: What in  
 25 the world is going on here? My six-year-old kid is

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1 with a candidate by the name of Smith who got into some  
 2 kind of problem for failing to report subvendors?

3 MR. LANG: That was resolved when he provided  
 4 the detail. The issue he got into trouble for was  
 5 overspending.

6 COMMISSIONER KUNASEK: I see.

7 MS. VARELA: Actually, it wasn't resolved. Mr.  
 8 Smith as well as a number of other candidates were the  
 9 subject of enforcement action as a result of 948(C)  
 10 requirements. But in many of those cases the Commission  
 11 allowed them to amend their reports.

12 COMMISSIONER KUNASEK: Okay. Thank you.

13 CHAIRPERSON BUSCHING: Any questions of Mr.  
 14 Munsil? If not, thank you.

15 Is there anyone else from the public that  
 16 wishes to speak to this matter?

17 Sir, state your name, please.

18 MR. MADDOX: David Maddox for the Munsil  
 19 Campaign. But Todd is right, this is my complaint for  
 20 myself.

21 I filed a complaint because, obviously, as you  
 22 can see by how much effort was required by the  
 23 Democratic Party, they simply weren't playing by the  
 24 rules. And I appreciate the staff and want to thank the  
 25 staff for pushing the issue. And I hope that in the

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1 getting one of these books advertising for Janet  
 2 Napolitano. And that's -- my complaint came in just  
 3 about the same time I got the e-mail.

4 This has been going on during the election  
 5 cycle. My concern on this is both as a citizen and  
 6 someone involved in this, that is just clearly something  
 7 being done to influence an election. You send something  
 8 home that is a gift to a child, in the middle of an  
 9 election cycle, within weeks of the actual election,  
 10 that's improper.

11 And I would think that matching funds are  
 12 appropriate, although it's too late for them to be of  
 13 much benefit. But I think more importantly than that, I  
 14 would ask the Commission as part of this study, that you  
 15 do set some rules, ladies and gentlemen, on what  
 16 incumbents can do to stop this unfair advantage of using  
 17 state expenditures and other things in way that do  
 18 influence an election.

19 And I also would just say, as I have shared  
 20 with Todd, that you need to consider giving more money.  
 21 The amount of money you give for a statewide race is not  
 22 enough money to get ideas and positions out to people in  
 23 the state.

24 And I guess the third thing I would ask you to  
 25 consider is, and the federal system does this, I mean,



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1 people ought to be required to debate three times in  
2 three different places in three different formats in a  
3 statewide race. Because what is happening here is the  
4 incumbent has such an advantage.

5 This race is a perfect example. Janet  
6 Napolitano just sat in -- you know just sat in the  
7 tower, participated in what she had to do and hasn't  
8 campaigned. She doesn't have to campaign because she  
9 can get out school books and do other things. And  
10 there's not enough money to fairly challenge her.

11 I would ask you to consider looking at the  
12 school book thing right now to begin to send a message  
13 that that's just not right. I mean, I'm not against  
14 giving books to children but they don't need the  
15 Governor's picture and a nice letter from her during an  
16 election cycle. Now, at another time, I mean, governors  
17 can do whatever they want to.

18 But in an election cycle, everything that  
19 anybody does -- I mean, we're all grownups here -- is  
20 get to their name and reputation out. She -- one of her  
21 major campaign influences is I am the election -- I am  
22 the Education Governor.

23 Well, I mean this fits right in with being the  
24 Education Governor. I'm going to send your child home  
25 with a book for you to read with my picture in it and a

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1 nice note. That's campaigning. Anyone that has run any  
2 kind of a campaign knows. And it's very effective  
3 campaigning. And the Commission ought to match funds  
4 for that and they ought to stop it. Thank you.

5 CHAIRPERSON BUSCHING: Thank you, sir. Are  
6 there questions of Mr. Maddox?

7 MR. MADDUX: Thank you.

8 CHAIRPERSON BUSCHING: If not, thank you.  
9 Sir, come forward and state your name  
10 please.

11 MR. GORDON: Andy Gordon on behalf of the  
12 Napolitano Campaign.

13 Thank you very much for allowing me to address  
14 the Commission. I hope this is the last time we talk  
15 before the election.

16 Let me address first the subvendor issue. On  
17 the sign vendor, as I indicated in the letter, our  
18 campaign and many other campaigns have used Bobby Ford  
19 as the sign vendor for some time. Mr. Ford is or was a  
20 former firefighter. He invoices us through his company,  
21 which is Med-something or another. But he's been in  
22 this business for a long time. We did not realize until  
23 the complaint came, frankly, that he had subvendors and  
24 we amended promptly.

25 And I want to point out in response to what Mr.

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1 Lee Munsil said, that once we discovered he had  
2 subvendors we went back and amended all the reports.  
3 That's why we amended the earlier reports. Because once  
4 we discovered subvendors, even though the complaint only  
5 related to this one, we went back and changed it so it  
6 still totals out in the exact same amount.

7 In terms of the media buyer, quite frankly, I  
8 think we've gone well beyond. This is another area of  
9 the -- what the Commission is trying to accomplish and  
10 what the statute provides for and what the Secretary of  
11 State's software permits are not consistent. And, quite  
12 frankly, I think we do much more than other campaigns.

13 When you buy media time, the campaign does not  
14 send a check to a channel. A campaign, or at least every  
15 campaign I've ever worked, has a media consultant. The  
16 money is first provided to the media consultant because  
17 the channels have to get the money from them.

18 So, we will give our media consultant an amount  
19 that we estimate will be sufficient to cover that. At  
20 that point in time there are no subvendors. In fact, we  
21 don't really know that we're going to spend that money  
22 on media.

23 Once the buy is actually placed, at that point  
24 you know where the money goes. And at the time the  
25 report was filed, it was accurate. It wasn't until

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1 later that we knew who the subvendors were.

2 What makes it more complicated is that when we  
3 advance the money to the media consultant, that money is  
4 technically a debt that he owes back to us -- it's a he  
5 in this case -- if it's not spent. That has to be shown  
6 in a different schedule on the Secretary of State's  
7 software.

8 You can't enter the information as the  
9 Commission wants it and make the software work. It  
10 doesn't work that way. That's why we were showing it on  
11 the description line where you can do it, but that's not  
12 the way -- you have to -- then if you follow the  
13 Commission rules as opposed to the approach, you got to  
14 go back and manually gerrymander the whole thing. It  
15 simply doesn't work.

16 The point is that our report shows the gross  
17 amount. Quite frankly, well, I have profound doubts  
18 whether the Munsil Campaign is doing this correctly.  
19 Because they're showing direct payments with no  
20 intermediary and I don't believe that's how they paid  
21 for it. I don't believe that's where the money is  
22 spent.

23 We are, in my view, more than playing by the  
24 rules and we're making every effort to play by the  
25 rules.

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1 In terms of the school books, it simply is not  
 2 the position of the Commission to decide that an  
 3 officeholder's name should not appear with the efforts  
 4 of the officeholder. And that is, quite frankly,  
 5 what -- what the Munsil Campaign is asking.  
 6 This is completely clear that this is not an  
 7 issue in light of what was done with Secretary of State  
 8 Brewer's campaign earlier. Indeed as somebody on the  
 9 phone -- and Commissioner Jolley or Commissioner Parker,  
 10 I apologize for not knowing who was speaking -- these  
 11 same -- not the same books but these type of books have  
 12 gone out every year.  
 13 It's not something that we -- you know, do  
 14 voters decide to vote for people because they like or  
 15 don't like an incumbent? Absolutely. But that's the  
 16 way the system works.  
 17 Like I said over and over again, the issues  
 18 that are raised are issues that are not in the Clean  
 19 Election's statute. They're definitional issues and  
 20 they can be changed.  
 21 But this is -- this is so clearly part of her  
 22 ongoing program, it really doesn't to pass the  
 23 straight-face test in terms of whether we did anything  
 24 wrong.  
 25 And you -- and this is not the time to politic

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1 the actual channel money was spent until just a few days  
 2 ago. This would be true for the recent effort and the  
 3 recent advertisements going on. This is true for us  
 4 also. We don't know yet exactly how much of that money  
 5 got spent. We'll know before we file our report.  
 6 But I'll point out again, \$220,000 worth of  
 7 this was purchased clear back in August. And I find it  
 8 hard to believe since I was able to get the detail,  
 9 they're unable to get the detail on which channels got  
 10 the money.  
 11 I agree you have to go back and gerrymander the  
 12 reports to satisfy because of the software. And I did  
 13 exactly that at the request of the Commission.  
 14 Third point. He said that our reports are not  
 15 in compliance and we're not showing the actual, I'll  
 16 call him the middleman if you would, the contractor.  
 17 In fact, that is inaccurate. Every one of our  
 18 refiles states the channels, the address, the amount of  
 19 money and it was paid through our consultant who  
 20 actually -- in place of their consultant somewhere else  
 21 or their contractor, ours was paid through our  
 22 consultant which is also like a campaign manager for us.  
 23 And those are listed in detail, every single line.  
 24 So I don't know what he's looking at when he  
 25 claims we haven't reported the middleman in this case.

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1 for who played games on debates.  
 2 Any questions?  
 3 I'm sorry, you're supposed to say that.  
 4 CHAIRPERSON BUSCHING: Are there any questions  
 5 of Mr. Gordon?  
 6 Thank you.  
 7 MR. GORDON: Thank you.  
 8 CHAIRPERSON BUSCHING: Is there anyone else  
 9 from the public that wishes to speak?  
 10 Sir, very short.  
 11 MR. MUNSIL: Yes, ma'am. I'm Lee Munsil,  
 12 treasurer of the Munsil Campaign and father of the  
 13 candidate.  
 14 I intend to reference three points that Mr.  
 15 Maddox -- Mr. Gordon said. Mr. Gordon said Mr. Maddox  
 16 original complaint did not include anything from the  
 17 prior expenses from Medicare Resources. That's not true.  
 18 Mr. Maddox's original complaint mentioned \$52,000 worth  
 19 of expenses to Medicare Resources for signs and bumper  
 20 stickers. \$45,000 of that was spent, as I said, way  
 21 back in May during the primary period. \$7,000 was spent  
 22 on August 31, still in the primary period. And only  
 23 \$1,000 roughly in October, which was the timeframe Mr.  
 24 Gordon would like you to look at.  
 25 The second point. He said they didn't know how

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1 It's on every single line of the report. Thank you.  
 2 CHAIRPERSON BUSCHING: Thank you. Any  
 3 questions of Mr. Munsil?  
 4 If not, turn back to Mr. Lang.  
 5 MR. LANG: Thank you, Madame Chair. I stand by  
 6 my recommendation. I certainly understand in terms of  
 7 the incumbent advantage. I understand the concerns  
 8 about that, but that's neither here nor there. The  
 9 bottom line is that the books do not represent expressed  
 10 advocacy and do not implicate matching funds.  
 11 As for the subvendor reports and the detail,  
 12 Daniel met with the Napolitano Campaign on Thursday and  
 13 my understanding is the final reports were completely  
 14 updated in the way we wanted them on Friday.  
 15 And both folks, both Mr. Munsil and Mr. Gordon,  
 16 are right. The reports don't accommodate what we want.  
 17 As you know, we require the sort of detail that allows  
 18 the public -- as Mr. Maddox referred to it, allows the  
 19 public to know what's going on. And, unfortunately, the  
 20 software has not yet been perfectly perfected to  
 21 accommodate this, and this is something we will be  
 22 working on as a priority in our off season. But I stand  
 23 by the recommendation.  
 24 CHAIRPERSON BUSCHING: Thank you.  
 25 Any discussion or a motion?

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1 COMMISSIONER JOLLEY: Chairman Busching, I'll  
 2 make that motion.  
 3 CHAIRPERSON BUSCHING: Okay.  
 4 COMMISSIONER JOLLEY: It's Commissioner Jolley.  
 5 In the matter under review, No. 06-0034, Janet  
 6 Napolitano a participating candidate for governor, that  
 7 the Commission find there's no reason to believe that  
 8 the Respondent violated ARS 16-941 and 16-945.  
 9 COMMISSIONER KUNASEK: I will second that  
 10 motion.  
 11 CHAIRPERSON BUSCHING: And is your motion  
 12 covering the entire statement of reasons, Commissioner  
 13 Jolley?  
 14 COMMISSIONER JOLLEY: Yes, it is.  
 15 CHAIRPERSON BUSCHING: Because 16-948 is also  
 16 cited in there too.  
 17 COMMISSIONER JOLLEY: Yes, that's correct  
 18 16-948(C).  
 19 CHAIRPERSON BUSCHING: So it's been moved by  
 20 Commissioner Jolley and seconded by Commissioner Kunasek  
 21 that we adopt the Executive Director's report and find  
 22 no reason to believe a violation occurred in MUR  
 23 06-0034. Further discussion?  
 24 If not, the Chair will call for the question,  
 25 all in favor say, "aye."

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1 to criticism.  
 2 Is there anyone from the public that wishes to  
 3 speak? Ma'am?  
 4 MS. KNAPAREK: Thank you. I didn't plan on  
 5 speaking actually. Do I need to sit here --  
 6 CHAIRPERSON BUSCHING: Yes, please.  
 7 MS. KNAPAREK: -- or stand?  
 8 CHAIRPERSON BUSCHING: If you could speak into  
 9 the microphone, state your name, and limit your comments  
 10 to five minutes.  
 11 MS. KNAPAREK: My name is Lauren Knaparek. I'm  
 12 State Representative in District 17 and a candidate.  
 13 I actually didn't come to ask you to go grocery  
 14 shopping with me. I brought with me a piece that just  
 15 came out today, so I'm not necessarily here to criticize  
 16 what's going on but just to say that I would like to  
 17 have a check today and I know that's not how your system  
 18 works.  
 19 So, as you can see this little piece is calling  
 20 me a Neo Nazi and I need to respond as soon as possible.  
 21 So, I'm hoping that the Commission will see to it that  
 22 even in these last few days before an election, there  
 23 needs to be a system in place so that candidates like me  
 24 will have the opportunity to respond.  
 25 So I'd be glad to pass that around.

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1 (Chorus of ayes.)  
 2 CHAIRPERSON BUSCHING: Opposed, nay?  
 3 Chair votes aye.  
 4 Commissioner Parker, are you still there?  
 5 COMMISSIONER PARKER: Yes. I voted aye.  
 6 CHAIRPERSON BUSCHING: Okay. Good. Thanks.  
 7 Sorry, I didn't hear you.  
 8 Motion carries.  
 9 Item V, discussion and consideration regarding  
 10 purchase of voter list by CCEC for distribution to  
 11 participating candidates.  
 12 Ms. Varela?  
 13 MS. VARELA: Right. And on this one I would  
 14 recommend going into executive session again.  
 15 CHAIRPERSON BUSCHING: Okay. Let's defer that  
 16 and ask -- I'll move to Agenda Item VI first.  
 17 MS. VARELA: Okay.  
 18 CHAIRPERSON BUSCHING: And then we can come  
 19 back to that.  
 20 Call for public comment. This is the time for  
 21 consideration and discussion of comments and complaints  
 22 from the public. Action taken as a result of public  
 23 comment will be limited to directing staff to study the  
 24 matter or rescheduling the matter for further  
 25 consideration or decision at a later date or responding

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1 MR. LANG: Thank you.  
 2 COMMISSIONER KUNASEK: How was that  
 3 distributed?  
 4 Can I ask a question?  
 5 MS. KNAPAREK: It appears to be distributed  
 6 door to door. And I don't know how widespread it is.  
 7 But, obviously, it was printed before today.  
 8 CHAIRPERSON BUSCHING: Thank you.  
 9 MS. KNAPAREK: You are welcome.  
 10 Does anybody have any questions for me?  
 11 MR. LANG: You are getting some checks.  
 12 CHAIRPERSON BUSCHING: I will direct staff  
 13 to --  
 14 COMMISSIONER SCARAMAZZO: Thank you.  
 15 CHAIRPERSON BUSCHING: -- to deal with this  
 16 matter.  
 17 MR. LANG: Thank you.  
 18 CHAIRPERSON BUSCHING: Is there anyone else  
 19 from the public that wishes to speak?  
 20 If not, we'll move back to Item V, is there a  
 21 motion to go into executive session?  
 22 COMMISSIONER KUNASEK: So moved.  
 23 COMMISSIONER SCARAMAZZO: Second.  
 24 CHAIRPERSON BUSCHING: It's been moved by  
 25 Commissioner Kunasek and seconded by Commissioner

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1 Scaramazzo that we go into executive session.  
 2 COMMISSIONER KUNASEK: With a two-minute  
 3 recess.  
 4 CHAIRPERSON BUSCHING: With a two-minute  
 5 recess.  
 6 Minutes of and discussions made in an executive  
 7 session are confidential pursuant to ARS Section  
 8 38-431.03(B) and shall not be released to anyone unless  
 9 specifically authorized by law. All in favor say,  
 10 "aye."  
 11 (Chorus of ayes.)  
 12 CHAIRPERSON BUSCHING: Opposed, nay?  
 13 Chair votes aye. Motion carries.  
 14  
 15 (Whereupon the public retires from the meeting  
 16 room.)  
 17  
 18 (Whereupon the Commission is in executive  
 19 session from 11:29 a.m. until 11:45 a.m.)  
 20  
 21 (Whereupon all members of the public are  
 22 present and the Commission resumes in general session.)  
 23  
 24 (Whereupon Commissioner Jolley is no longer  
 25 present telephonically.)

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1  
 2 CHAIRPERSON BUSCHING: I was told by counsel  
 3 that we need not take any action on Item V. So, we'll  
 4 move to Agenda Item VII since we've already had agenda  
 5 Item VI. I'll entertain a motion.  
 6 COMMISSIONER SCARAMAZZO: So moved.  
 7 COMMISSIONER KUNASEK: So moved.  
 8 COMMISSIONER SCARAMAZZO: You can have it.  
 9 COMMISSIONER KUNASEK: Second.  
 10 CHAIRPERSON BUSCHING: It's been moved by  
 11 Commissioner Scaramazzo and seconded by Commission  
 12 Kunasek that we adjourn. All in favor say, "aye."  
 13 (Chorus of ayes.)  
 14 CHAIRPERSON BUSCHING: Opposed, nay?  
 15 I understand that Commissioner Jolley --  
 16 we lost Commissioner Jolley from the teleconference  
 17 during executive session.  
 18 So the Chair votes aye. Motion carries. We're  
 19 adjourned.  
 20  
 21 (Whereupon the proceeding concludes at 11:47  
 22 a.m.)  
 23  
 24  
 25

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1 C E R T I F I C A T E  
 2  
 3 I, Angela Furniss Miller, Certified Reporter,  
 4 do hereby certify that the foregoing pages numbered 1  
 5 through 75, inclusive, constitute a full and accurate  
 6 printed record of my stenographic notes taken at said  
 7 time and place, all done to the best of my skill and  
 8 ability.  
 9 DATED, at Phoenix, this 30th day of November,  
 10 2006.  
 11  
 12  
 13  
 14 Angela Furniss Miller, RPR  
 15 Certified Reporter (AZ50127)  
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